

REMARKS

Applicant thanks the Examiner for carefully reviewing the application. Please reconsider this application in view of the above amendments and the following remarks.

Disposition of the Claims

Claims 6, 7, and 17-21 are pending. Therefore, claims 6, 7 and 17-21 are pending. Claims 20-21 have been withdrawn, as being directed to non-elected invention. Therefore, claims 6-7 and 17-19 are under consideration. Claim 6 is independent. Claims 7 and 17-19 depend, directly or indirectly, from claim 6.

Amendment to the Claims

Claim 6 has been amended to clarify the inventions recited. Support for these amendments can be found, for example, in paragraphs [0036]-[0038] and SEQ ID No:1 in paragraph [0064] of the published application No. 2006-0189521. For example, paragraph [0037] teaches polynucleotides having fragments of at least 15 bases, 30 bases, 50 bases, or 100 bases that can hybridize to hLRTM4 or its complementary sequence. No new matter is introduced by the amendments.

Rejections under 35 U.S.C. § 103

Claims 6, 7 and 17-19

Claims 6, 7 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over NCI-CGAP EST sequence (<http://www.ncbi.nlm.nih.gov/ncicgap>, Accession AI241478, mRNA linear EST 01-DEC-1998, (see sequence results in SCORE, search labeled “20081218_105428_us-10-541-247-1.sl.rst”, result #12)) (hereinafter “AI241478”). Claim 6 has been amended. To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

The present invention is related to a pharmaceutical composition comprising a polynucleotide or an oligonucleotide that can function as an antagonist against hLRTM4 gene or the hLRTM4 gene product. The amended claim 6 requires, *inter alia*, “an antagonist of hLRTM4 gene or hLRTM4 gene transcript, wherein the hLRTM4 gene has the sequence of SEQ ID NO: 1, wherein the antagonist is a polynucleotide having a contiguous fragment of 30-100 bases that hybridize to the hLRTM4 gene or the hLRTM4 gene transcript.”

AI241478 teaches a sequence that is complementary to the sequence 228-625 (i.e., 397 bases) of SEQ ID NO: 1. (Office Action, page 5, lines 13-16). However, AI241478 is not a contiguous fragment of 30-100 bases that hybridize to SEQ ID NO: 1. Thus, AI241478 does not teach or suggest “an antagonist of hLRTM4 gene or hLRTM4 gene transcript, wherein the hLRTM4 gene has the sequence of SEQ ID NO: 1, wherein the antagonist is a polynucleotide having a contiguous fragment of 30-100 bases that hybridize to the hLRTM4 gene or the hLRTM4 gene transcript,” required by the amended claim 6. Therefore, the amended claim 6 is patentable over AI241478. Claims 7 and 17-19 depend from claim 6 and should also be

patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Restriction Requirement

Group I: claims 6, 7 and 17-19 are drawn to a composition.

Group II: claims 20 and 21 are drawn to a method of treating a carcinoma.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features due to the rejection of claims 6, 7 and 17-19 under 35 U.S.C. 103(a) over AI241478.

For the reasons stated above, Applicant believes that claims 6, 7 and 17-19 are patentable over AI241478. As a result, there is a unity of invention because a special technical feature exists linking the composition claims 6, 7 and 17-19 with the method claims 20 and 21. Therefore, claims 20 and 21 should be allowed to rejoin. Accordingly, withdrawal of the restriction requirement is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number

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listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591
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Respectfully submitted,

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